

For Public

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In The Matter of Charges and

Complaint Against

ROBERT BERKLEY, M.D.,

Respondent.

Case No. 08-19290-1

NO. _____

FILED 16 September 2008


EXECUTIVE DIRECTOR

COMPLAINT

The Investigative Committee of the Board of Medical Examiners of the state of Nevada, composed of Sohail U. Anjum, M.D., Chairman and S. Daniel McBride, M.D., by and through Lyn E. Beggs, Deputy General Counsel for the Nevada State Board of Medical Examiners, having a reasonable basis to believe that Robert Berkley, M.D., hereinafter referred to as "Respondent," has violated the provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative Committee's charges and allegations, as follows:

1. Respondent is currently licensed in active status, and was so licensed by the Nevada State Board of Medical Examiners, hereinafter referred to as "the Board," pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes, at the time of the incidents in question.

2. Patient A was a fifty-year-old female at the time of the matter in question. Her true identity is not disclosed to protect her privacy, but her identity is disclosed in the Patient Designation served on Respondent along with a copy of this Complaint.

3. Patient A was admitted to St. Rose Dominican Hospital, Siena Campus, on March 13, 2001, after presenting to the emergency room with complaints of shortness of breath and after being found to be in rapid atrial fibrillation.

4. Patient A underwent various diagnostic studies including a limited two-dimensional and a Doppler echocardiogram, which was performed by Respondent. The findings included mitral valvular thickening and moderate mitral stenosis as well as moderate aortic sclerosis.

1 5. Based upon diagnostic studies, Patient A had a pacemaker implanted during this
2 hospitalization.

3 6. Subsequent to her hospitalization, Patient A saw Respondent several times through
4 June 2001.

5 7. Patient A was again hospitalized on December 9, 2001 after presenting to the emergency
6 room with complaints increased shortness of breath and orthopnea.

7 8. Patient A was admitted with suspected congestive heart failure secondary to severe aortic
8 stenosis among other issues.

9 9. At the time of admission it was recommended that Patient A undergo a right and left
10 cardiac catheterization as well as other studies.

11 10. An echocardiogram was performed by Respondent on December 9, 2001, which
12 indicated the possibility of mitral valvular disease with moderate to severe mitral regurgitation and
13 moderate mitral stenosis with possible aortic valvular disease, moderate to severe aortic stenosis and
14 moderate aortic regurgitation. The echocardiogram also showed an ejection fraction of 74%.

15 11. A catheterization was performed on December 13, 2001, although the medical records
16 indicate that only a left heart catheterization was performed.

17 12. The conclusions of the catheterization showed mild coronary artery disease with no lesions
18 greater than 25%, mild aortic insufficiency and mild aortic stenosis.

19 13. Patient A was discharged on December 16, 2001 with instructions to contact Respondent
20 for an appointment within two weeks.

21 14. On March 22, 2002, Patient A was admitted to Valley Hospital with shortness of breath
22 and rapid atrial fibrillation after being transported to the hospital by emergency services and was
23 medically stabilized.

24 15. Respondent performed a consultation on March 23, 2002, and noted that Patient A's
25 signs and symptoms suggested congestive heart failure, possibly due to rapid atrial fibrillation and/or
26 due to the progression of Patient A's valvular disease

27 16. Respondent recommended treating Patient A with a variety of medications,
28 recommended serial cardiac markers, an echocardiogram, and to obtain her old records.

17. Echocardiograms were performed on March 23, 2002, and showing mild mitral regurgitation and moderate mitral stenosis as well as severe aortic stenosis. An ejection fraction of 40% was also noted.

18. Patient A was discharged on March 27, 2002, and in the discharge summary prepared by Dr. Prasad, he noted that the original plan for Patient A was to obtain her prior medical records from St. Rose Hospital about her previous coronary angiogram and other test and then possibly schedule her for surgery for valve replacement, however, Respondent indicated to him that patient A could be discharged on current medications and be seen by her primary care physician.

19. Respondent did not receive and review Patient A's previous medical records before recommending that she could be discharged.

20. Patient A did return to her home, but subsequently expired on April 2, 2002 from cardio pulmonary arrest and myocardial infarction as noted on her death certificate.

Count I

21. Nevada Administrative Code Section 630.040 defines malpractice as the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

22. Nevada Revised Statute Section 630.301(4) provides that malpractice is grounds for initiating disciplinary action against a licensee.

23. Respondent failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances when as Patient A's cardiologist, he failed to recognize that Patient A's condition required a cardiac surgery consult for possible valve replacement, failed to have any further diagnostic workup performed regarding Patient A's condition, failed to review Patient A's past medical records and instead indicated that she could be discharged and seen by her primary care physician.

24. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes.

WHEREFORE, the Investigative Committee prays:

1. That the Nevada State Board of Medical Examiners fix a time and place for a formal hearing;

1 2. That the Nevada State Board of Medical Examiners give Respondent notice of the
2 charges herein against him, the time and place set for the hearing, and the possible sanctions against
3 him;

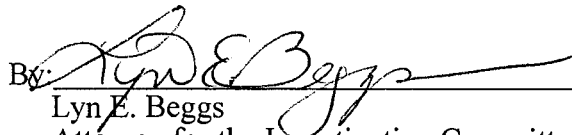
4 3. That the Nevada State Board of Medical Examiners determine what sanctions it will
5 impose for the violation or violations committed by Respondent;

6 4. That the Nevada State Board of Medical Examiners make, issue and serve on
7 Respondent its findings of facts, conclusions of law and order, in writing, that includes the sanctions
8 imposed; and

9 5. That the Nevada State Board of Medical Examiners take such other and further action as
10 may be just and proper in these premises.

11 DATED this 16th day of September, 2008.

12 INVESTIGATIVE COMMITTEE OF
13 THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

14 By: 
15 Lyn E. Beggs
16 Attorney for the Investigative Committee of the Nevada
17 State Board of Medical Examiners
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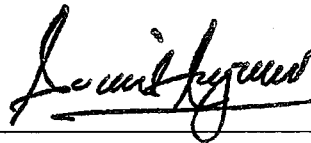
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VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF CLARK)

SOHAIL U. ANJUM, M.D., having been duly sworn, hereby deposes and states under penalty of perjury that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered in the course of the investigation into a complaint against Respondent, he believes that the allegations and charges in the foregoing Complaint against Respondent are true, accurate, and correct.

DATED this 16th day of September, 2008.



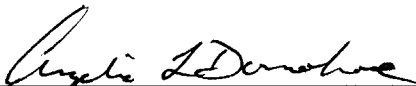
SOHAIL U. ANJUM, M.D.

1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on
3 the 17th day of September 2008, I served a file copy of the COMPLAINT, NOTICE OF PREHEARING
4 & HEARING, along with a copy of the appointment letter by mailing via USPS certified return receipt
5 to the following:

6
7 Robert Berkley, M.D.
8 7455 W. Washington Ave., Ste. 300
9 Las Vegas, NV 89128

10 Dated this 17th day of September 2008.

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13 _____
14 Angelia Donohoe
15 Legal Assistant
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